

BASS, BERRY & SIMS, P.C.
A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

T G PAPPAS
TEL. (615) 742-6242
FAX. (615) 742-2742
EMAIL: tgappas@bassberry.co

2700 FIRST AMERICAN CENTER
NASHVILLE, TENNESSEE 37238-2700
(615) 2-6200

KNOXVILLE OFFICE
1700 RIVERVIEW TOWER
KNOXVILLE, TN 37901-1509
(423) 521-6200

MEMPHIS OFFICE
119 S. MAIN STREET, SUITE 500
MEMPHIS, TN 38103
(901) 312-9100

EXECUTIVE SECRETARY

November 17, 1999

RECEIVED
TN REG. AUTHORITY

NOV 17 1999

ENERGY & WATER DIVISION

Mr. K. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0500

**RE: Tennessee American Water Company
TPSC No. 19, Fifth Revision of Sheet No. 8
Cancelling Fourth Revision of Sheet No. 8**

Dear Mr. Waddell:

As counsel for Tennessee American Water Company, we are enclosing original and five (5) copies of the above-described tariff for filing. We would appreciate it if you would call this filing to the attention of the Directors.

This filing is being made as part of a Settlement Agreement between the City of Chattanooga (the "City") and the Tennessee American Water Company (the "Company"). The City had filed a suit for Eminent Domain against Tennessee American Water Company styled City of Chattanooga v. Tennessee American Water Company, et al., Case No. 99-C-1081 assigned to Division IV of the Circuit Court of Hamilton County, Tennessee. The City was seeking to purchase the Company and the Company resisted. The matter has been in litigation.

The parties have recently reached a settlement agreement to resolve this matter. I am enclosing a copy of the Settlement Agreement between the City and the Company providing inter alia for the dismissal with prejudice of the pending lawsuit and for the reducing of the fire hydrant annual charges of \$301.20 per year to \$50.00 per year over a two-year period subject to the approval of the Tennessee Regulatory Authority. The agreed order of dismissal has been filed with the Circuit Court of Hamilton County and a copy of that order is enclosed.

Mr. K. David Waddell

Page 2

November 17, 1999

We are also enclosing a copy of a letter dated November 5, 1999, from Mayor Jon Kinsey to William F. L'Ecuier, President of the Company, stating that the City had examined the proposed tariff, and that it complied with the Settlement Agreement. The Company believes that the settlement of the lawsuit and the reduction of the fire hydrant charges over a two-year period as proposed in the tariff are necessary and proper and in the best interest of the Company and the customers that it serves. It respectfully urges the TRA to approve the tariff.

We would appreciate it if the approval of this tariff could be expedited so that it may be permitted to go into effect as of December 17, 1999.

Thanking you for your attention to this matter, and if you need any additional information, please do not hesitate to call me.

With kindest regards, I remain

Very truly yours,



T. G. Pappas

TGP/br#2064937

Enclosures

cc: Honorable Jon Kinsey, Mayor
Mr. William F. L'Ecuier
Mr. Michael E. Horne
Richard Collier, Esq.
L. Vincent Williams, Esq.
Frederick L. Hitchcock, Esq.
Randall L. Nelson, Esq.
Joe A. Conner, Esq.
Mr. Rod Naviraukas

TENNESSEE-AMERICAN WATER COMPANY

TPSC No. 19

Fifth Revision of Sheet No. 8

1999 NOV 17 Canceling

Fourth Revision of Sheet No. 8

CLASSIFICATION OF SERVICE

PUBLIC FIRE SERVICE

Available For:

Public Fire Service in the City of Chattanooga, City of East Ridge, City of Red Bank, the Town of Lookout Mountain, Tennessee, and Unincorporated Areas of Hamilton and Marion Counties, Tennessee; and the City of Rossville, the Town of Lookout Mountain, Georgia and the Unincorporated Areas of Walker, Catoosa and Dade Counties, Georgia.

<u>Rates</u>	<u>Rates Per Annum - Billed Monthly</u>		
Each Public Fire Hydrant	\$301.20		
	\$271.20	Effective December 31, 1999	(d)
	\$241.20	Effective March 31, 2000	(d)
	\$211.20	Effective June 30, 2000	(d)
	\$181.20	Effective September 30, 2000	(d)
	\$151.20	Effective December 31, 2000	(d)
	\$121.20	Effective March 31, 2001	(d)
	\$ 91.20	Effective June 30, 2001	(d)
	\$ 61.20	Effective September 30, 2001	(d)
	\$ 50.00	Effective December 31, 2001	(d)

(d) decrease

W:\WPFILES\TENNESSE\96-00959\TARIFFS\TRA-OCT.'99

ISSUED: November 17, 1999

EFFECTIVE DATE: December 17, 1999

BY: W.F. L'Ecyer, PRESIDENT
1101 Broad Street
Chattanooga, Tennessee 37401

**SETTLEMENT AGREEMENT BETWEEN
CITY OF CHATTANOOGA AND
TENNESSEE-AMERICAN WATER COMPANY**

1. This agreement between the parties is conditioned upon the following:

- A) Dismissal with prejudice on or before Friday, October 29, 1999 of the lawsuit styled City of Chattanooga v. Tennessee-American Water Company et al, Case No. 99-C-1081;
- B) Passage of a resolution on or before Friday, October 29, 1999 to rescind Resolution No. 21983 and Ordinance No. 10813.

2. Upon satisfaction of the above conditions, Tennessee-American Water Company ("TAWC") and the City agree as follows:

A. The City and TAWC will each pay their own legal fees and other costs related to all litigation.

B. TAWC and the City will file a joint petition with the Tennessee Regulatory Authority ("TRA") seeking permission to reduce over a two-year period the current charge of \$301.00 a year per fire hydrant to \$50 a year per fire hydrant at the end of that period. If the TRA does not approve this provision, then this section is null and void.

C. TAWC and the City will meet regularly to coordinate all planned street openings.

D. The City may become an economic development partner with the TAWC. As partners, each shall help the other to obtain appropriate available financing to expand or extend the system to provide necessary water service.

E. With respect to Case No. 52118, the City may only appeal the portion of the Court's decision which holds that TAWC has a state-granted, perpetual franchise. The City agrees that it will not seek payment of any damages in this matter regardless of any decision or appeal. TAWC reserves the right to appeal any ruling adverse to it upon appeal by the City. If after all appeals are exhausted, it is determined TAWC does not have a state-granted, perpetual franchise, the City will immediately issue a franchise to TAWC as outlined in attachment "A." If, on the other hand, the City loses its appeal of the decision rendered in Case No. 52118, then this section as it relates to a City-granted franchise is null and void.

F. TAWC will cooperate with the City in striving to improve the fire rating (ISO) to Class 2.

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

CITY OF CHATTANOOGA, TENNESSEE
A MUNICIPAL CORPORATION,

Petitioner,

v.

TENNESSEE-AMERICAN WATER COMPANY
and FIRST UNION NATIONAL BANK

Respondents.

) OCT 28 1999

)

)

) _____

)

)

)

)

)

)

)

)

)

)

)

No. 99-C-1081

Division IV

Judge W. Neil Thomas, III

JURY DEMAND

AGREED ORDER OF DISMISSAL

The parties Petitioner City of Chattanooga, Tennessee, and Respondents Tennessee-American Water Company, and First Union National Bank, by and through counsel, have represented to the Court that all matters in controversy among the parties have been resolved.

It is therefore ORDERED that this action is hereby dismissed with prejudice.

It is further ORDERED that court costs are taxed one-half to Petitioner City of Chattanooga and one-half to Respondent Tennessee-American Water Company.

ENTER this ____ day of October, 1999.

Honorable W. Neil Thomas, III

APPROVED FOR ENTRY:

BAKER, DONELSON, BEARMAN & CALDWELL, P.C.

By: 

Joe A. Conner (BPR # 12031)

T.O. Helton (BPR # 1929)

Gregory G. Fletcher (BPR # 5455)

Misty Smith Kelley (BPR # 19450)

1800 Republic Centre

633 Chestnut Street

Chattanooga, Tennessee 37450-1800

(423) 756-2010

Counsel for Respondents Tennessee-American Water Company
and First Union National Bank

STRANG, FLETCHER, CARRIGER, WALKER, HODGE & SMITH, P.L.L.C.

By: 

Frederick L. Hitchcock (BPR # 05960)

Larry L. Cash (BPR # 09386)

Stephen D. Barham (BPR # 019292)

One Union Square, Suite 400

Chattanooga, TN 37402

(423) 265-2000

Counsel for Petitioner City of Chattanooga

By: 

Randall L. Nelson (BPR # 01307)

City Attorneys Office

801 Broad Street, Suite 400

Chattanooga, TN 37402

(423) 757-5338

Counsel for Petitioner City of Chattanooga



City of Chattanooga

OFFICE OF THE MAYOR

SUITE 100, CITY HALL (423) 757-5152

Chattanooga, Tennessee 37402

November 5, 1999

Mr. William F. L'Ecuier, President
Tennessee American Water Company
1101 Broad Street
Chattanooga, Tennessee 37401

RE: City of Chattanooga v. Tennessee American Water Company, etal
Case No. 99-C-1081, Circuit Court of Hamilton County, Tennessee
Settlement Agreement dated October 25, 1999

Dear Mr. L'Ecuier:

This is to confirm the discussions at our meeting of this morning at which time we reviewed the proposed tariff (TPSC No. 19, Fifth Revision of Sheet No. 8) that Tennessee American Water Company (the "Company") will file with the Tennessee Regulatory Authority (the "TRA") seeking its approval to reduce the current charges of \$301.00 a year per fire hydrant to \$50.00 a year per fire hydrant over a two year period. You have furnished me a copy of the proposed tariff which I have reviewed and find satisfactory. We agree that the tariff will comply with Item 2B of our Settlement Agreement dated October 25, 1999, if approved by the TRA.

It is my understanding that your attorneys will file with the TRA the following: (a) the proposed tariff; (b) a copy of our Settlement Agreement; (c) a copy of the Agreed Order; and, (d) a copy of this letter, seeking their approval. If we can assist you further in any way, do not hesitate to let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jon Kinsey", is written over a large, stylized, looping flourish that extends to the right and then loops back down to the left.

Jon Kinsey

JK/sp